

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, N.Y. 12234

OFFICE OF PROFESSIONAL DISCIPLINE
ONE PARK AVENUE, NEW YORK, NEW YORK 10016-5802

February 16, 1990

RECEIVED

FEB 23 1990

Engracia Mendoza, Physician
90-29 56th Avenue
Elmhurst, N.Y. 11373

Re: License No. 158464 OFFICE OF PROFESSIONAL
MEDICAL CONDUCT

Dear Dr. Mendoza:

Enclosed please find Commissioner's Order No. 10460. This Order and any penalty contained therein goes into effect five (5) days after the date of this letter.

If the penalty imposed by the Order is a surrender, revocation or suspension of your license, you must deliver your license and registration to this Department within ten (10) days after the date of this letter. In such a case your penalty goes into effect five (5) days after the date of this letter even if you fail to meet the time requirement of delivering your license and registration to this Department.

Very truly yours,

DANIEL J. KELLEHER
Director of Investigations
By:

MOIRA A. DORAN
Supervisor

DJK/MAH/er
Enclosures

CERTIFIED MAIL- RRR

cc: Michael Greene, Esq.
Pollack & Greene
950 Third Avenue
New York, N.Y. 10022

Engracia Mendoza

incorporates paragraphs 4(a)(i)-(iii) and 4(d)(i)-(iv)); and Tenth through Thirteenth Specifications, Failing to Maintain a Record (as set forth in paragraphs 6 and 6(b)); in full satisfaction of all the charges.

I hereby agree to the penalty that my license to practice as a physician in the State of New York be suspended, for a period of two years, that execution of said suspension be stayed, and that I be placed on probation for a period of two years under the terms set forth in the exhibit annexed hereto, made a part hereof, and marked as Exhibit "B".

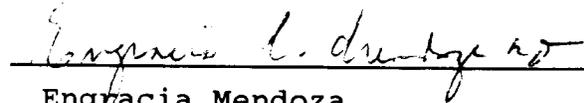
I hereby make this application to the Board of Regents and request that it be granted.

I understand that, in the event that this application is not granted by the Board of Regents, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board of Regents shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board of Regents pursuant to the provisions of the Education Law.

Engracia Mendoza

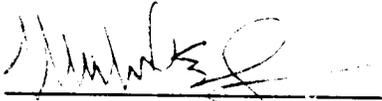
I agree that, in the event the Board of Regents grants my application, as set forth herein, an order of the Commissioner of Education may be issued in accordance with same.

No promises of any kind were made to me. I am making this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.



Engracia Mendoza
Respondent

Sworn to before me this
16th day of October, 1989.

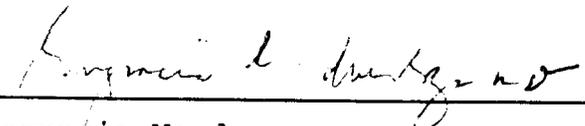


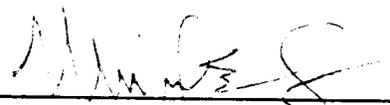
NOTARY PUBLIC
MICHAEL E. GREEN
Notary Public, State of New York
No. 4654433
Qualified in Nassau County
Commission Expires November 30, 1989

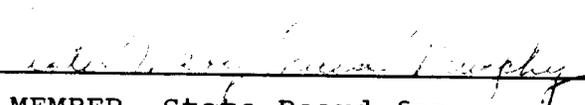
STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

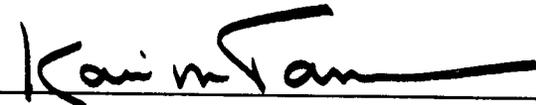
IN THE MATTER : APPLICATION
OF : FOR
Engracia Mendoza : CONSENT
: ORDER

The undersigned agree to the above statement and to the proposed penalty based on the terms and conditions thereof.

Date: 12/16/89 
Engracia Mendoza
Respondent

Date: 12/16/89 
Michael E. Greene, Esq.
Attorney for Respondent

Date: 11/20/89 
MEMBER, State Board for
Professional Medical Conduct

Date: 11/14/89 
KATHLEEN M. TANNER
Director, Office of Professional
Medical Conduct

Engracia Mendoza

The undersigned has reviewed and agrees to the attached application for consent order.

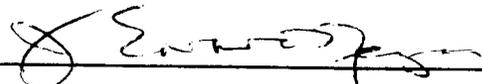
Date: 11/3/89



DAVID AXELROD, M.D.
Commissioner of Health

The undersigned, a member of the Board of Regents who has been designated by the Chairman of the Regents Committee on Professional Discipline to review this Application for a Consent Order, has reviewed said application and recommends to the Board of Regents that the application be granted.

Date: 12/7/89



MEMBER OF THE BOARD OF REGENTS

EXHIBIT A

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

XXX
IN THE MATTER
OF
ENGRACIA MENDOZA, M.D.
XXX

AMENDED
STATEMENT
OF
CHARGES

The Office of Professional Medical Conduct alleges as follows:

1. Engracia Mendoza, M.D., herein called the Respondent, was authorized to engage in the practice of medicine in the State of New York on June 18, 1984 by the issuance of license number 158464 by the State Education Department.
2. Respondent is currently registered with the New York State Education Department to practice medicine for the period January 1, 1989 through December 31, 1991 from 90-29 56th Ave., Elmhurst, New York 11373.
3. Respondent is charged with professional misconduct within the meaning of N.Y. Educ. Law §6509, as set forth in the specifications attached.

FIRST THROUGH FOURTH SPECIFICATION

4. Respondent is charged with committing professional misconduct, within the meaning of N.Y. Educ. Law §6509(2) (McKinney 1985) by practicing the profession with gross incompetence or with gross negligence on a particular occasion in that:

a) On or about January 29, 1985, Patient A (Patients are identified in Appendix A), a 35 year old woman, was admitted to Boulevard Hospital, Long Island City, New York ("Boulevard") under the care of Respondent, for a planned Total Abdominal Hysterectomy. Respondent's care and treatment of Patient A failed to meet acceptable medical standards in that:

(i) Respondent failed to perform and/or note adequate history, physical examination, laboratory and sonography prior to performing surgery.

(ii) Respondent noted a postoperative diagnosis of Fibroid Uterus without adequate support for such diagnosis being documented in the operative record and pathology report.

(iii) Respondent performed a Total Abdominal Hysterectomy, which was not indicated by the condition of Patient A, as that condition was documented in the hospital chart.

b) On or about September 20, 1984, Patient B, a 34 year old woman, was admitted to Boulevard Hospital under the care of Respondent, for a planned Total Abdominal Hysterectomy. Respondent's care and treatment of Patient B failed to meet acceptable medical standards in that:

(i) Respondent failed to perform and/or note an adequate history and physical prior to surgery.

- (ii) Respondent performed a Total Abdominal Hysterectomy, which was not indicated by the condition of Patient B, as that condition was documented in the hospital chart.
 - (iii) Despite the fact that Patient B's tubes were found to be swollen and with hydrosalpinx, Respondent failed to resect this pathology.
- c) On or about April 11, 1985 Patient C, a 35 year old woman, was admitted to Boulevard under the care of Respondent, for a planned Total Abdominal Hysterectomy. Respondent's care and treatment of Patient C failed to meet acceptable medical standards in that:
- (i) Respondent diagnosed Patient C as anemic, despite an Hct of 41.4% and an Hgb of 13.5 g/dL.
 - (ii) Respondent failed to perform or note an adequate history and physical prior to surgery.
 - (iii) Respondent performed a Total Abdominal Hysterectomy which was not indicated by the condition of Patient C, as that condition was documented in the hospital chart.
- d) On or about February 27, 1985, Patient D, a 30 year old woman, was admitted to Boulevard under the care of Respondent, for a planned Total Abdominal Hysterectomy. Respondent's care and treatment of Patient D failed to meet acceptable medical standards in that:
- (i) Respondent failed to perform and/or note an adequate history and physical examination and diagnostic tests prior to performing surgery upon Patient D.
 - (ii) Respondent failed to utilize medical therapy addressed to this patient's complaints prior to performing surgery, or failed to note such medical therapy.

- (iii) Respondent performed a Total Abdominal Hysterectomy which was not indicated by the condition on Patient D, as that condition was documented in the hospital chart.
- (iv) Respondent noted a postoperative and final diagnosis of fibroid uterus when such was not supported by the pathology report or the condition of the patient, as that condition was documented in the hospital chart.

FIFTH SPECIFICATION

5. Respondent is charged with committing professional misconduct, within the meaning of N.Y. Education Law §6509(2) (McKinney 1985) by practicing the profession with negligence or incompetence on more than one occasion in that Petitioner charges two or more of the following.

The Office of Professional Medical Conduct repeats the allegations contained in the first through fourth specifications.

SIXTH THROUGH THIRTEENTH SPECIFICATION

6. Respondent is charged with engaging in professional misconduct within the meaning of N.Y. Educ. Law §6509(9) (McKinney 1985) by committing unprofessional conduct as defined by the board of regents in its rules in that:

- a) Respondent ordered excessive treatment not warranted by the condition of the patient, within the meaning of N.Y. Admin. Code tit. 8, §29.2(a)(7) (1987 and, formerly, 1981), Respondent performed Total Abdominal Hysterectomy

on Patients A, B, C and D, when such procedure was not indicated by the conditions of those patients.

- b) Respondent failed to maintain a record for each of Patients A through D which accurately reflects the evaluation and treatment of those patients, within the meaning of N.Y. Admin. Code tit. 8, §29.2(a)(3) (1987 and, formerly, 1981).

Dated: Albany, New York
August , 1988

KATHLEEN M. TANNER
Director
Office of Professional
Medical Conduct

EXHIBIT B

TERMS OF PROBATION

1. That Respondent, during the period of probation, shall conduct herself in all ways in a manner befitting her professional status, and shall conform fully to the moral and professional standards of conduct imposed by law and by her profession;
2. That Respondent shall submit written notification to the New York State Department of Health (NYSDOH), addressed to the Director, Office of Professional Medical Conduct, New York State Health Department, Empire State Plaza, Tower Building, Albany, New York 12237 of any employment and practice, of Respondent's residence and telephone number, of any change in respondent's employment, practice, residence, or telephone number within or without the State of New York;
3. Respondent shall submit written proof from the Division of Professional Licensing Services (DPLS), New York State Education Department (NYSED), that respondent has paid all registration fees due and owing to the NYSED and Respondent shall cooperate with and submit whatever papers are requested by DPLS in regard to said registration fees, said proof from DPLS to be submitted by Respondent to the New York State Department of Health, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, no later than the first three months of the period of probation;
4. Respondent shall submit written proof to the NYSDOH, addressed to the Director, Office of Professional Medical Conduct, as aforesaid, 1) Respondent is currently registered with the NYSED, unless Respondent submits written proof that Respondent has advised DPLS, NYSED, that Respondent is not engaging in the practice of Respondent's profession in the State of New York and does not desire to register, and that 2) Respondent has paid any fines which may have previously been imposed upon respondent by the Board of Regents; said proof of the above to be submitted no later than the first two months of the period of probation;
5. Respondent will perform surgery only after each patient has obtained a concurring second opinion from a Board Certified

surgeon regarding indications for surgery. The recommendations and report of said Board Certified Surgeon shall be included in Respondent's medical record pertaining to each patient.

6. Respondent will perform, and maintain a complete medical record of appropriate diagnostic evaluation and appropriate care for each patient she treats.
7. Respondent shall meet, at least quarterly, with a physician designated by the Director of the Office of Professional Medical Conduct, and shall provide that physician with a selection of her complete medical charts pertaining to a selection of the patients on whom Respondent has performed surgery, during the preceding time period. These charts will be selected in any manner requested by the designated physician and/or the Office of Professional Medical Conduct. The purpose of these quarterly meetings will include, but will not be limited to the correction of Respondent's deficient medical record keeping, the evaluation, by the designated physician, of the indication or lack of indication for surgery performed by Respondent, and the verification that Respondent is complying with relevant requirements of the terms of probation. At any time during the period of probation, the Director of the Office of Professional Medical Conduct may, in her discretion, direct that a comprehensive medical review be performed by a physician selected by her, of Respondent's care and treatment of any or all patients during the period of probation.
8. Respondent shall, upon execution of the proposed consent order, enter into and complete a preceptorship, of one year duration, with a physician (henceforth "the Preceptor") who is Board Certified in Obstetrics and Gynecology. Respondent shall spend six hours per week working with the Preceptor, in the manner described in Exhibit "C", attached hereto and made a part hereof. The Preceptor shall report monthly, in writing, to the Director of the Office of Professional Medical Conduct, or her designee, regarding Respondent's attendance and progress, and shall certify Respondent's successful completion of the preceptorship.
9. Initially, Dr. Henrietta Kiamazon, who is more fully identified in Exhibit "C", shall act as the Preceptor. If Dr. Kiamazon should ever decline to continue in her role as

EXHIBIT C

POLLACK & GREENE

ATTORNEYS AT LAW

950 THIRD AVENUE

NEW YORK, NEW YORK 10022

ALAN M. POLLACK
MICHAEL E. GREENE

CARL M. KUNTZ*
GAIL FARNSWORTH D'ITALIA*

*ALSO MEMBER
OF NEW JERSEY BAR

TELEPHONE (212) 826-0730

TELECOPIER (212) 644-1936

LONG ISLAND OFFICE
7600 JERICHO TURNPIKE
WOODBURY, N.Y. 11797
(516) 496-8117

COUNSEL
BERNARD STEBEL

July 17, 1989

NYS DEPT. OF HEALTH
DIVISION OF LEGAL AFFAIRS
PROFESSIONAL MEDICAL CONDUCT

JUL 24 1989

RECEIVED

Roy Nemerson, Esq.
N.Y.S. Dept. of Health
8 East 40th Street, 3rd Floor
New York, NY 10016

Re: State of New York Department of Health and Engracia Mendoza, M.D.

Dear Mr. Nemerson:

As you know my firm represents Dr. Engracia Mendoza with respect to the above-referenced matter. We are submitting this letter on behalf of Dr. Mendoza as a proposal to resolve this action and in accordance with our numerous conversations.

The basis of Dr. Mendoza's resolution of this matter pertains to the arranging for a preceptorship requirement. Toward that end, a doctor suitable to both you and Dr. Mendoza would agree to undertake the responsibility of retraining and monitoring Dr. Mendoza's skills as well as methods of recordkeeping.

After consulting with numerous medical organizations and teaching hospitals, it is proposed that Dr. Henrietta Kiamzon of LaGuardia Hospital serve in the capacity of preceptor. Enclosed for your review is Dr. Kiamzon's C.V. Dr. Kiamzon is the Acting Director of Ob-Gyn at the hospital, as well as trained in high risk pregnancy. Dr. Kiamzon will agree, as preceptor, to report monthly, in writing, to the Director of Office of Professional Medical Conduct or such other individual as the Department may designate on attendance and progress in the preceptorship and further will agree to certify successful completion of the preceptorship by Dr. Mendoza.

It is further proposed that Dr. Mendoza spend six(6) hours each week for a period of one(1) year under the supervision and direction of Dr. Kiamzon. While all aspects of Ob-Gyn patient care will be addressed, particular emphasis will be given to the following areas:

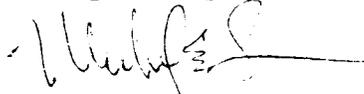
Page Two
July 17, 1989

1. The taking of a complete and thorough history from the patient.
2. Complete recording of the history taken.
3. Conduct of a complete and thorough examination of the patient.
4. Complete recording of the results of the physical examination.
5. Evaluation of clinical signs, symptoms, tests, historical information and other medical data in order to arrive at a diagnosis.
6. Formulation of an appropriate and comprehensive treatment plan based on the patients diagnosis and individual needs.
7. Complete review of operation procedures with an emphasis on hysterectomys and high risk pregnancy.

The requirements of the one year preceptorship have been discussed with Dr. Mendoza. By signing this letter Dr. Mendoza confirms her agreement to the terms set forth above.

I trust that the above proposal is satisfactory. If there are any areas that I have neglected to address in the above prposal, please contact me at your earliest convenience..

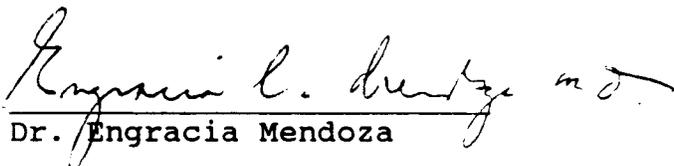
Very truly yours,



Michael E. Greene

meg/sr

AGREED TO:



Dr. Engracia Mendoza

**ORDER OF THE COMMISSIONER OF
EDUCATION OF THE STATE OF NEW YORK**

ENGRACIA MENDOZA

CALENDAR NO. 10460



The University of the State of New York

IN THE MATTER

OF

ENGRACIA MENDOZA
(Physician)

**DUPLICATE
ORIGINAL
VOTE AND ORDER
NO. 10460**

Upon the application of ENGRACIA MENDOZA, under Calendar No. 10460, recommended to be granted by a member of the Board of Regents on December 7, 1989, which application is made a part hereof, and in accordance with the provisions of Title VIII of the Education Law, it was

VOTED (January 17, 1990): That the application of ENGRACIA MENDOZA, respondent, for a consent order be granted; and that the Commissioner of Education be empowered to execute, for and on behalf of the Board of Regents, all orders necessary to carry out the provisions of this vote;

and it is

ORDERED: That, pursuant to the above vote of the Board of Regents, said vote and the provisions thereof as well as the application and the provisions thereof are hereby adopted and **SO ORDERED**, and it is further

ORDERED that this order shall take effect as of the date of the personal service of this order upon the respondent or five days after mailing by certified mail.

ENGRACIA MENDOZA (10460)

IN WITNESS WHEREOF, I, Thomas Sobol,
Commissioner of Education of the State of
New York, for and on behalf of the State
Education Department and the Board of
Regents, do hereunto set my hand and affix
the seal of the State Education Department,
at the City of Albany, this 29th day of
January, 1990.

Thomas Sobol
Commissioner of Education

Preceptor, Respondent shall arrange to replace the Preceptor with another physician who is Board Certified in Obstetrics and Gynecology and who is acceptable to the Director of the Office of Professional Medical Conduct or her designee, for the balance of the one year period of preceptorship.

10. So long as there is full compliance with every term herein set forth, Respondent may continue to practice her aforementioned profession in accordance with the terms of probation; provided, however, that upon receipt of evidence of noncompliance with or any other violation of probation proceeding and/or such other proceeding may be initiated, by the Director of the Office of Professional Medical Conduct and against Respondent pursuant to the Public Health Law, the Education Law, and/or the Rules of the Board of Regents. If the Board of Regents ultimately determines that Respondent has violated any term or condition of probation, they may impose any additional penalty authorized pursuant to New York Education Law Sec. 6511.